

REMARKS

The present Amendment amends claims 1, 18 and 19, cancels claims 2-17 and 20, leaves claims 20 unchanged, and adds new claims 21-34. Therefore, the present application has pending claims 1, 18, 19 and 21-34.

Information Disclosure Statement

The Examiner alleges that the Information Disclosure Statement (IDS) filed on August 12, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP §609 "because the references have not been translated into English." However, contrary to the Examiner's assertions, the IDS filed on August 12, 2003 fully complies with the aforementioned provisions.

The Examiner's attention is directed to 37 CFR 1.98(a)(3), which provides that a concise explanation of the relevance of non-English language documents must be submitted, and that an English-language translation of a non-English-language document should only be submitted if it is readily available to the Applicant. More specifically, the 37 CFR 1.98(a)(3) provides that an IDS shall include:

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in §1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in §1.56(c).

With regard to the requirement for a concise explanation of the relevance, the Examiner's attention is directed to MPEP §609.04(a)(III), which provides that submission of an English-language abstract may fulfill the requirement for a concise

explanation. Accordingly, the English-language abstracts filed on August 12, 2003 along with the non-English language documents cited in the IDS are in compliance with the provisions of 37 CFR 1.98.

With regard to the Examiner's assertion that translations of the non-English language documents are required, Applicant submits that written English-language translations of the non-English-language documents are not within the possession, custody, or control of, or are not readily available to any individual designated in §1.56(c). Therefore, Applicant submits that the IDS filed on August 12, 2003 fully complies with the provisions of 37 CFR 1.97, 1.98.

Accordingly, Applicant respectfully requests the Examiner to consider the information referred to therein, and provide Applicant with an initialed copy of the IDS to indicate such consideration.

Claim for Foreign Priority

Applicant filed a claim for foreign priority under 35 U.S.C. §119, claiming the right for priority based on Japanese Patent Application No. 2003-147747. The claim for foreign priority and the certified copy of the priority document was filed on August 12, 2003. However, the Examiner has not acknowledged Applicant's claim for foreign priority or the receipt of the certified copy of the priority documents. Therefore, Applicant respectfully requests the Examiner's acknowledgement of Applicant's claim for foreign priority and receipt of the certified copy of the priority document.

35 U.S.C. §101 Rejections

Claims 1-16, 18, 19, and 20 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. As indicated above, claims 2-16, and 20 were canceled. Therefore, this rejection regarding claims 2-16 and 20 is

rendered moot. Regarding the remaining claims 1, 18 and 19, this rejection is traversed for the following reasons. Applicants submit that contrary to the Examiner's assertions, claims 1, 18 and 19 are directed to statutory subject matter and are in compliance with the provisions of 35 U.S.C. §101.

Regarding claims 1, 18 and 19, the Examiner alleges that a content delivery server (as recited in claim 1) and a content reception terminal (as recited in claim 18) "can be considered as software per se, which is not one of the categories [of] subject matter." However, with regard to claims 1 and 18, Applicants submit that it is well known in the art that a "server" is a computer or a device that manages network resources, and that a "terminal" is a device that enables communication with a computer, and with regard to claim 19, Applicants further submit that a "computer" is a well-known term of art. The terms server, terminal and computer each fall under the statutory category of a machine. Furthermore, consistent with any definitions in the specification, at least one element or feature of the claimed server, terminal or program causing the computer to perform steps is necessarily implemented in hardware.

Accordingly, Applicants submit that the claims are statutory, and respectfully request the Examiner to reconsider and withdraw this rejection.

35 U.S.C. §102 Rejections

Claims 1-20 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,564,263 to Bergman et al. ("Bergman"). As indicated above, claims 2-17 and 20 were canceled. Therefore, this rejection regarding claims 2-17 and 20 is rendered moot. Regarding the remaining claims 1, 18 and 19, this rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1, 18 and 19 are not

taught or suggested by Bergman, whether taken individually or in combination any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to the claims to more clearly describe features of the present invention. Specifically, amendments were made to the claims to more clearly recite that the present invention is directed to a content delivery server, a content reception terminal, and a program for delivering content as recited, for example, in independent claims 1, 18 and 19.

The present invention, as recited in claim 1, and as similarly recited in claims 18 and 19, provides a content delivery server. The server includes an input/output unit for performing transmission and reception of information between itself and a terminal connected thereto. The server also includes a content management unit for managing a content composed of at least one or more modalities. Furthermore, the server includes a control unit for controlling the input/output unit and the content management unit. According to the present invention, the control unit obtains attribute information composed of environment attribute information including at least one of a locational situation of the terminal and a noise around the terminal, and user attribute information including at least one of a visual ability and an auditory ability of a user using the content by means of the terminal. Also according to the present invention, the control unit generates, based on the obtained attribute information, modality construction information specifying modalities to be delivered to the terminal. Furthermore, according to the present invention, the control unit determines, by using the modality construction information, a modality construction for the content to be delivered. The the control unit also delivers the content composed of the determined modalities to the terminal via the input/output unit. The

prior art does not disclose all of these features.

The above described features of the present invention, as now more clearly recited in the claims, are not taught or suggested by any of the references of record, particularly Bergman, whether taken individually or in combination with any of the other references of record.

Bergman teaches a multimedia content description framework. However, there is no teaching or suggestion in Bergman of the content delivery server, the content reception terminal or the program for delivering content as recited in claims 1, 18 and 19 of the present invention.

Bergman discloses a framework for describing multimedia content and a system in which a plurality of multimedia storage devices using the disclosed content description methods can interoperate. In one embodiment, the content description framework is a description scheme (DS) for describing streams or aggregations of multimedia objects, which may include audio, images, video, text, time series, and various other modalities. This description scheme can accommodate an essentially limitless number of descriptors in terms of features, semantics or metadata, and facilitate content-based search, index, and retrieval, among other capabilities, for both streamed and aggregated multimedia objects.

One feature of the present invention, as recited in claim 1, and as similarly recited in claims 18 and 19, includes where the control unit obtains attribute information composed of environment attribute information including at least one of a locational situation of the terminal and a noise around the terminal, and user attribute information including at least one of a visual ability and an auditory ability of a user using the content by means of the terminal. According to the present invention, the control unit generates, based on the obtained attribute information,

modality construction information specifying modalities to be delivered to the terminal. Also according to the present invention, the control unit determines, by using the modality construction information, a modality construction for the content to be delivered. Furthermore, according to the present invention, the control unit delivers the content composed of the determined modalities to the terminal via the input/output unit. Bergman does not disclose these features.

In the present invention, a content delivery server selects and delivers a content composed of modalities considering the terminal used by the user, the ambient environment, which includes the relationship between the user and the terminal, and the characteristics and preferences of the user. Furthermore, in the present invention, the user can view and/or hear an arbitrary content composed of optimum modalities suited to the environment even if he or she changes the location, time or terminal. For example, the present invention includes where the content delivery server controls content delivery based on a "visual sense" (see, e.g., Fig. 5), an "auditory sense" (see, e.g., Fig. 5), a "locational situation" (see, e.g., Fig. 7), and "noise" (see, e.g., Fig. 7).

To the contrary, Bergman merely relates to multimedia content description, and more specifically relates to a system for describing streams or aggregation of multimedia objects. Bergman teaches a system for allowing the access and exchange of varying types/formats of multimedia information between client devices and multimedia storage devices by providing a framework for describing multimedia content and a system where a plurality of multimedia storage devices using the content description methods can interoperate. This is quite different from the present invention. For example, Bergman does not teach or suggest obtaining attribute information including locational situation of a terminal or a noise around the

terminal, and obtaining either a visual ability or an auditory ability of a user using the content by means of the terminal, as in the present invention.

In addition, Bergman does not teach or suggest where the control unit generates, based on the obtained attribute information, modality construction information specifying modalities to be delivered to the terminal, determines, by using the modality construction information, a modality construction for the content to be delivered, and delivers the content composed of the determined modalities to the terminal via the input/output unit. To support the assertion that Bergman teaches these features, the Examiner cites column 7, line 60 to column 8, line 10. However, neither the cited text, nor any other portion of Bergman teaches the claimed features. For example, the cited text merely describes where a modality may be synthesized when an appropriate multimedia content modality does not exist to appropriately describe the multimedia content. The modality is synthesized by transforming and/or combining other existing modalities and/or fidelities until the desired content is adequately described. This is not the same as the present invention.

Therefore, Bergman fails to teach or suggest “wherein the control unit obtains attribute information composed of environment attribute information including at least one of a locational situation of said terminal and a noise around said terminal, and user attribute information including at least one of a visual ability and an auditory ability of a user using the content by means of said terminal,

wherein the control unit generates, based on said obtained attribute information, modality construction information specifying modalities to be delivered to said terminal,

wherein the control unit determines, by using the modality construction

information, a modality construction for the content to be delivered, and

wherein the control unit delivers said content composed of said determined modalities to said terminal via said input/output unit” as recited in claim 1, and as similarly recited in claims 18 and 19.

Therefore, Bergman does not teach or suggest the features of the present invention, as recited in claims 1, 18 and 19. Accordingly, reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection of claims 1, 18 and 19 as being anticipated by Bergman are respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references used in the rejection of claims 1, 18 and 19.

New Claims 21-34

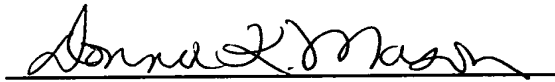
Claims 21-34 were added to more clearly recite features of the present invention. Specifically, claims 21-34 were added to more clearly recite that the present invention is directed to a content delivery server, a content reception terminal, and a program for delivering content as recited, for example, in independent claims 21, 26, 27, and 29-34. Applicants submit that independent claims 21, 26, 27, 29-34 contain features similar to those recited in independent claims 1, 18 and 19. Therefore, claims 21-34 are allowable for at least the same reasons previously discussed regarding claims 1, 18 and 19.

In view of the foregoing amendments and remarks, Applicants submit that claims 1, 18, 19, and 21-34 are in condition for allowance. Accordingly, early allowance of claims 1, 18, 19, and 21-34 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (referencing Attorney Docket No. 1213.43022X00).

Respectfully submitted,

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